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6 Attorneys for Creditor/Moving Party
Sterling Savings Bank, Successor In Interest By Merger To Sonoma National Bank

8 UNITED STATES BANKRUPTCY COURT
9 NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

10 In Re:
11 TV-32 DIGITAL VENTURES, INC., a
12 California corporation,
13 Debtor.

Case No. 09-58098 ASW 11
Chapter 11
R.S. No. RKS/001

Date: August 25, 2010
Time: 2:15 p.m.
Location: 280 S. 1st Street, San Jose, CA
Courtroom: 3020

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16 **STERLING SAVINGS BANK'S REPLY TO DEBTOR'S OPPOSITION TO MOTION FOR**
17 **RELIEF FROM STAY**

18 COMES NOW, STERLING SAVINGS BANK, Successor In Interest By Merger To
19 Sonoma National Bank (the "Sterling"), and replies to the Debtor's Opposition to Motion for Relief
20 from Stay, as follows:

21 The Debtor's Opposition consists of two sentences, referencing the filing of a Second
22 Amended Plan, and seeking to delay the inevitable by relying thereon. However, the Plan is based
23 entirely on sheer speculation and conjecture, with absolutely no concrete evidence to support its
24 feasibility. The Debtor represents that it intends to implement this Plan by leasing up the Property,
25 and obtaining "guaranteed revenues" and grants from various public entities. However, the
26 prospective tenant on which the Debtor relies for leasing up the Property, KMTP TV, admittedly
27 lacks the capacity to lease additional space (Disclosure Statement p. 8:24), and the assertion that it
28 will be able to do so in the future is purely speculative. The reliance upon expected grants from the
Corporation for Public Broadcasting (that are currently unavailable), is similarly based upon pure

1 conjecture. Likewise, no evidence exists that funding from local governmental entities, struggling
2 to make their own budgets balance, is somehow going to shake loose for this Debtor. All of this is
3 wholly speculative and has no basis in reality. Indeed, that the Debtor's only facts to support his
4 projections come from a projection of sales from a retail store, Best Buy, is indicative of this.

5 Moreover, the Debtor wrongfully relies upon \$645,000 belonging to Arlene Stevens, to
6 support its Plan. (Disclosure Statement, p. 13:13, 24-27.) The Debtor has cited to no authority, and
7 Sterling is aware of none, which allows the Debtor to include assets of a non-debtor – indeed, assets
8 which the non-debtor has no obligation to contribute– to create adequate protection for creditors.

9 Finally, a thirty-six month time frame for execution of the proposed Plan is unjustifiable.
10 No basis in law exists to require Sterling Savings to wait for three years to see if the Debtor can turn
11 any of the above conjecture and speculation into reality.

12 In short, the Plan is unfeasible on its face. At the most, all the Debtor can offer is “high
13 hopes,” without any realistic financial prospects on the horizon to warrant a conclusion that a
14 reorganization is likely. As such, it cannot be said that the Property, **1010 Corporation Way, Palo**
15 **Alto, California 94303**, is necessary to an effective reorganization. (*La Jolla Mortgage Fun v.*
16 *Rancho El Cajon Assoc.*, 18 B.R. 283, 291 (Bankr. S.D. Cal. 1982); *see also, United Savings Assoc.*
17 *of Texas v. Timbers of Inwood Forest Assoc., Ltd.* 484 U.S. 365, 375-76.) Thus, no basis exists to
18 continue to require Sterling to wait, as the market declines, to enforce its rights under its First Deed
19 of Trust. The evidence indicates that a successful reorganization within a reasonable time is
20 impossible. Accordingly, the Court must grant Sterling relief from stay.

21 Dated: August 16, 2010

Respectfully submitted,

22 ABBEY, WEITZENBERG,
23 WARREN & EMERY

24 BY: /s/ Rachel K. Stevenson
25 Rachel K. Stevenson
26 Attorneys for Objecting Party
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1 **PROOF OF SERVICE**

2 I declare that:

3 I am employed in the County of Sonoma, California. I am over the age of eighteen years
4 and not a party to the within cause; my business address is 100 Stony Point Road, Ste. 200,
P. O. Box 1566, Santa Rosa, California 95402-1566.

5 On the date set out below, I served the attached:

6 **STERLING SAVINGS BANK'S REPLY TO DEBTOR'S OBJECTION TO
MOTION FOR RELIEF FROM STAY**

7 on the interested parties in said cause, by placing a true copy thereof enclosed in a sealed envelope
8 addressed as follows:

9 TV-32 Digital Ventures, Inc.
10 1010 Corporation Way
Palo Alto, CA 94303-4304

Debtor

11 Booker T. Wade
12 1010 Corporation Way
Palo Alto, CA 94303-4304

Responsible Individual

13 Jeremy W. Katz
14 Matthew J. Shier
15 Pinnacle Law Group
425 California Street, #1800
San Francisco, CA 94104

Debtor's Counsel

16 Office of the U.S. Trustee/SJ
17 U.S. Federal Building
280 S. 1st Street, #268
San Jose, CA 95113-3004

U.S. Trustee

18 Campeau Goodsell Smith, LC.
19 William J. Healy
20 440 N. 1st Street, Ste. 100
San Jose, CA 95112

Counsel for Arlene Stevens

21 CB Richard Ellis Brokerage Services
22 Attn: Gregory S. DeLong
Two Palo Alto Square, Ste. 100
3000 El Camino Real
23 Palo Alto, CA 94306

Creditor

24 David Hammerslough
1960 The Alameda, Ste. 200
25 San Jose, CA 95126-1451

Creditor

26 Fidelity National Title Co., Trustee
TS No. 09-00354-4C
27 Attn: Tamala Dailey
135 Main St., Ste. 1900
28 San Francisco, CA 94105

Creditor

1 International Revenue Service Creditor
2 P.O. Box 21126
3 Philadelphia, PA 19114

4 Security Signal Devices, Inc. Creditor
5 1740 N. Lemon St.
6 Anaheim, CA 92801-1007

7 Small Business Administration Creditor
8 c/o Capital Access Group
9 150 California Street, Ste. 250
10 San Francisco, CA 94111

11 City of Palo Alto Creditor
12 Utilities Dept.
13 250 Hamilton Ave.
14 Palo Alto, CA 94301

15 Peninsula Air Conditioning Company Creditor
16 1690 Tacoma Way
17 Redwood City, CA 94063

18 /xx/ (BY MAIL) I placed each such sealed envelope, with postage thereon fully prepaid for first-
19 class mail, for collection and mailing at Santa Rosa, California, following ordinary business
20 practices. I am readily familiar with the practice of Abbey, Weitzenberg, Warren & Emery for
21 processing of correspondence, said practice being that in the ordinary course of business,
22 correspondence is deposited in the United States Postal Service the same day as it is placed for
23 processing.

24 I declare under penalty of perjury that the foregoing is true and correct, and that this
25 declaration was executed on August 16, 2010, at Santa Rosa, California.

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/s/ Julie Heydel
Julie Heydel